

**MINUTES**  
**KITTY HAWK TOWN COUNCIL**  
**August 4, 2014**  
**Kitty Hawk Town Hall, 6:00 PM**

Agenda

1. Call to Order
2. Moment of Silence/Pledge of Allegiance
3. Approval of Agenda
4. Presentations/Recognitions: Firefighter Engineer Mike Basilone
5. Public Comment
6. Consent Agenda
  - a.) Approval of July 7, 2014 Council Minutes
  - b.) Revenues and Expenses Report for June 2014
  - c.) Resolution in Support of a Restricted Fund Grant from the Dare County Tourism
  - d.) FY 14-15 Budget Amendment #1
  - e.) Agreement for Professional Services with Albemarle & Associates
  - f.) Capital Improvements Purchase: Police Department Dodge Charger
7. Items Removed from the Consent Agenda
8. Public Hearing
  - a.) Text Amendment: Application to amend the Kitty Hawk Town Code with the addition of Section 42-528 establishing standards for the development of solar energy systems.
9. Planning
  - a.) Discussion of Potential Town Code Amendments to the Location of Septic Systems
10. New Business
  - a.) Schedule for Approval of Municipal Service Districts
  - b.) Beach Tent/Canopy Discussion
11. Reports or General Comments from Town Manager
12. Reports or General Comments from Town Attorney
13. Reports or General Comments from Town Council
14. Public Comment
15. Adjourn

**COUNCIL MEMBERS PRESENT:**

Mayor Gary Perry, Mayor Pro Tem Ervin Bateman, Councilman Craig Garriss, Councilwoman Emilie Klutz and Councilman Jeff Pruitt

**STAFF MEMBERS PRESENT:**

Town Manager John Stockton, Town Clerk Lynn Morris, Town Attorney Steve Michael, Finance Officer Charlene Allen, Management Assistant Melody Clopton, Town Planner Joe Heard and Fire Chief Lowell Spivey

**Kitty Hawk Town Council Minutes: August 4, 2014**  
**Page 2**

**1. Call to Order**

Mayor Perry called this meeting to order and welcomed everyone for attending.

**2. Moment of Silence/Pledge of Allegiance**

Following a moment of silence the Pledge of Allegiance was recited.

**3. Approval of Agenda**

**MPT Bateman made a motion, seconded by Councilwoman Klutz to approve the agenda. It passed unanimously, 5-0.**

**4. Presentations/Recognitions: Firefighter Engineer Mike Basilone**

Fire Chief Lowell Spivey introduced Firefighter Mike Basilone and recognized his achievement of becoming a Firefighter Engineer.

Mayor Perry thanked him and the fire department for everything they do.

**5. Public Comment**

**1. Manny Medeiros:** *Good evening. You probably read a recent story in the Washington Post describing a whopping sea level rise of 39" by the year 2100 which of course is absurd. Unfortunately, computer models, lacking supervision by human brains, continue to advance and promote the notion that man is causing a planet to warm and sea level to rise for which there is no statistically significant empirical evidence. On July of 27<sup>th</sup> the National Geographic Society, likewise known for abject drivel concerning climate change ... for example this whole edition exactly 10 years ago published a similar whopper about global warming and sea level rise acceleration. First of all sea level rise is not accelerating. It is simply continuing a very slow rise as we recover from the Little Ice Age.*

*Furthermore, there has been no global warming for the last 18 years manmade or otherwise in spite of the fact we have a continuing rise in carbon dioxide. Unfortunately, though, if you sit in front of a computer every day for 20 years you start to think about computer models as something that is real. However nature does not play computer games. So I suspect that we are about to enter a silly season where once again a parade of computer model oriented self-proclaimed climate experts will trot out to the beach to various venues bringing presentations for us to stop climate change, particularly sea level rise. I suspect that even this council will be targeted to host such scare mongering. Thus I believe it is important that this council recognize the fact that global thermometers, on average, have stubbornly refused to rise since 1996, making us wonder how many years a temperature trend must stop before alarmists begin to understand that the planet is just not warming. Clearly global temperature stability in the past 18 years was not predicted by global warming models being used today for policy making.*

**Kitty Hawk Town Council Minutes: August 4, 2014**

**Page 3**

*Unfortunately we are being threatened more by current global warming policy making than we are by global warming itself, policies that are as futile and as useless as asking men to take the morning after pill.*

*In listening to persons appearing before you, especially government-captured academicians that have repeatedly trotted out to this beach over the years, I suggest you apply the honest man test. Namely, when an honest man eventually learns that he is in error he has two choices. Does he remain honest or does he remain in error?*

*With that I thank you for these 3 minutes. If you have questions I will be happy to answer them.*

**Perry:** *We don't normally ask but I do have a question. The reason I understood you were going to speak tonight on this subject had to do with the CRC and three vacancies on it.*

**Medeiros:** *Well the three vacancies are peripheral. The CRC issued the shabbiest reports in 2010 and it took the legislature to knock that thing down and pass a law that refuses anybody in the state from using that stuff. Then they were required by the year 2015 to produce a scientific report instead of a consensus report. They are starting to work on that now. In just a few months they are going to have it before us. So I am trying to make sure that everybody understands what happened last time and let's not let that happen this time because it would just kill the whole Outer Banks if they were to go the way these people were going. It is all just based on consensus and as you know a consensus is not the business of science it is the business of politics. Science is not a show of hands. Science basically is organized skepticism so let's hope this new report will have some science in it this time instead of just consensus of experts.*

**Bateman:** *I have a suggestion. Take this to Raleigh and talk to them because they need some help. Trust me.*

**Medeiros:** *If I am invited I will be glad to do that. I really would. That is the kind of thing I do these days. Thank you.*

**6. Consent Agenda**

**a.) Approval of July 7, 2014 Council Minutes.** *(An affirmative vote for the consent agenda will approve these minutes.)*

**b.) Revenues and Expenses Report for June 2014.** *(An affirmative vote for the consent agenda will acknowledge this report.)*

**c.) Resolution in Support of a Restricted Fund Grant from the Dare County Tourism Board for Expansion of the Lillian Street Beach Access Parking Area.** *This resolution stipulates council is in support of submitting a grant application to the*

**Kitty Hawk Town Council Minutes: August 4, 2014**  
**Page 4**

Dare County Tourism Board for \$17,647 for the Lillian Street Beach Access Parking Area. *(An affirmative vote for the consent agenda will adopt this resolution.)*

**d.) FY 14-15 Budget Amendment #1.** This amendment will appropriate NCDENR-CAMA grant funds for the Lillian Street Beach Access Parking Project in the amount of \$12,500 for engineering services and \$40,441 for improvements for a total of \$52,941. *(An affirmative vote for the consent agenda will approve this budget amendment.)*

**e.) Agreement for Professional Services.** This agreement with Albemarle & Associates is for engineering the improvements and expansion of the Lillian Street Beach Access. It includes a topographic survey, final site design, construction documents & specifications, bidding, contract administering & inspections and a final as-built survey for a total of \$12,500. *(An affirmative vote for the consent agenda will approve this agreement.)*

**f.) Capital Improvements Purchase.** The police department is requesting permission to purchase one Dodge Charger in the amount of \$22,973. *(An affirmative vote for the consent agenda will approve this budgeted request.)*

**Councilman Garriss made a motion to approve the consent agenda. The motion was seconded by Councilman Pruitt and passed unanimously.**

**7. Items Removed from the Consent Agenda**

There were no items removed from the consent agenda.

**8. Public Hearing**

**a.) Text Amendment: Application to amend the Kitty Hawk Town Code with the addition of Section 42-528 establishing standards for the development of solar energy systems.**

**MPT Bateman made a motion, seconded by Councilwoman Klutz, to go into public hearing. The vote was unanimous.**

**Heard:** *At the last meeting Mayor Perry asked a question concerning how this came forward to council. This was an idea that was brought forth by staff to the planning board to consider some rules as we take a look at other solar energy projects popping up here and there particularly in northeast North Carolina. It might be a good idea to take a look at what standards the town would like to set for that and to consider putting those in place before we get a proposed project where we feel like we are in a response or defensive mode. We took some time with the board and hopefully as well with the council to consider what you think might work best in Kitty Hawk. Take a look at adopting standards for this should the town have a proposal. The staff will be able*

**Kitty Hawk Town Council Minutes: August 4, 2014**  
**Page 5**

*to pull something out and say it is going to comply or it will not. That way we will be better prepared as a community.*

*With that in mind we pulled a lot of resources together but the main document we worked with was a model ordinance that was prepared by the North Carolina Solar Center and North Carolina Sustainable Energy Association. They were the main two who helped organize this effort but there was involvement from dozens of different interest groups and organizations. Everybody from the business side to people associated with the solar industry put together a model ordinance. That document was a base we looked at and referred to. However the draft ordinance you have does not resemble that one greatly except maybe in the way it is organized.*

*Across the state they are dealing with very large projects. I cited one in the staff report that has just been approved recently in Currituck County. It is a very large project of 225 acres. We are highly unlikely to see something of that nature in Kitty Hawk due to land values, the amount of high ground and things of that nature. However it is certainly within the realm of possibility that we would see a decent sized project someday. A property owner might have property where the soils are not good, it does not perk at all and the property might have a minimal value. We have a few folks out there like that right now that I am aware of. Not that they are seeking this but someday they may look at that property and ask what can be done. I am paying taxes on this property, I cannot put a house on it, what can I do to get some economically viable use out of this property.*

*The other thing this ordinance is intended to address in some manner are the smaller ones that people might use to help work with their electric bills. I don't know that the numbers really work at this point in time but there may be a point when they do and they are looking at this as a supplemental source of electricity for their property.*

*So it is intended to address everything from small units on up to decent size projects. We have tried to address that by setting up a tiered system. In the proposal there are three different levels that are outlined. The small ones that are going to be individual property type of things we have set up an approval process that would be administrative and could move forward.*

*The second tier is up to half an acre in size and is something that could be could be significant in the right set of circumstances. There are some firmer development standards and those are things that in many districts, particularly in residential districts, would be a conditional use. If somebody wants to do this in a residential area they would have to come before the planning board and the council and you would have the opportunity to evaluate the impact this type of project might have.*

*And finally for those larger level three projects it is a conditional use no matter what district you are in. Those would come before the planning board and council no matter where it was proposed and there is also another layer of standards that would have to be met and are outlined in the draft ordinance.*



**Kitty Hawk Town Council Minutes: August 4, 2014**  
**Page 6**

*After discussion the planning board has recommended this to the council for consideration and I would certainly like to begin a similar type of discussion with the council. I will also be glad to answer any specific questions councilmembers might have.*

**Klutz:** *This is just specific to the ordinance. When we get to the discussion part there are things I would like to put before the rest of council also. The Table 2 Setbacks, Level 2, shows 30', 15', 25' and Level 3 has 50' across the board. There is nothing identifying which setback you are talking about so I think that should be added to the table.*

*The other thing about the ordinance that I do not agree with is in the purpose statement. It seems to me part of the purpose statement is more like cheerleading for solar energy than what the purpose of the actual ordinance is. I suggest we define the purpose of this ordinance to establish standards to facilitate the construction, installation and operation of solar energy systems in the Town of Kitty Hawk period and then delete everything that follows until you get to the last two sentences that begin with this ordinance is not intended to circumvent safety, health or environmental requirements contained in other applicable codes, standards or ordinances. The provisions of this ordinance do not nullify any provisions of local, state or federal law. I do not think it is appropriate in a zoning code for an endorsement if you will of any particular type of a system. The other changes I would suggest I will give after the public hearing.*

**Perry:** *At present would a proposal to build a solar be allowed without an ordinance?*

**Heard:** *Staff has permitted some small scale residential applications. The ordinance does not reference anything specific so we treated it as just another electrical fixture and have approved at least three things of that nature.*

**Perry:** *I have seen some permits for pools, heaters and things of that nature.*

**Heard:** *Yes. They have been the smaller things. If we received an application for anything larger that would be panels we would have told them that is something that is not clear the ordinance would permit and would have brought it forward to the planning board and council. But at this point we have only dealt with some small things.*

**Perry:** *Can a person currently install a solar hot water heater system without the ordinance? What would stop you ... I guess where I am going with this is for something of that nature why do we need an ordinance? We already have the NC Building Code.*

**Heard:** *The intent is simply to clarify that fact for the smaller things. While we were looking at setting standards for larger Level 2 type systems we figured we may as well put some wording in to make clear the town's intention regarding those smaller units. So even though we have permitted them under a typical building code ... we require them to get an electrical permit and they are inspected as they are installed. We wanted to clarify that intent if it is the intent of the council to allow those types of systems.*

**Kitty Hawk Town Council Minutes: August 4, 2014**

**Page 7**

**Perry:** *If somebody wanted to, as you said, use their property but it did not perk or it might be mostly wetlands, would this ordinance allow them to put a large solar farm on it?*

**Heard:** *Anything over half an acre in size would fall under the Level 3 category and it would take a conditional use permit. It would have to comply with all the standards in the ordinance but it would certainly potentially allow that and if it was over wetlands of course they would also have to receive permission from and comply with the standards of the CAMA Act and the Corps of Engineers as necessary.*

**Pruitt:** *Is there a house in Kill Devil Hills or Kitty Hawk on the beach road that has a sign that says solar house and the whole roof is a panel?*

**Heard:** *That is one that was approved.*

**Pruitt:** *And it was a regular approval?*

**Heard:** *Yes. It is a residential installation of some solar approved panels.*

**Perry:** *Is there anyone else that wishes to speak at this part of the public hearing? Let the record show no one came forward. Do I hear a motion to go back into regular session?*

**Councilman Garriss made a motion, seconded by MPT Bateman, to go back into regular session. The vote was unanimous, 5-0.**

**Perry:** *I am going to recommend we table this until the next meeting so we can all think about the things we have heard.*

**Klutz:** *That was where I was going with this also. I want to ask council if this is something we really want for Kitty Hawk, particularly the Level 3. The way I look at that is there is an opportunity to put up solar panels that have a maximum height of 20' with the setbacks we see in Level 2. These are in residential districts and I guess the SES 3's are also available to residential districts. If someone has a lot next to you and has a 15' side yard setback, and there are no regulations that have to do with lot coverage for the post or whatever they are on, that is the impression I got from reading what was in here ... within 15' of your property line you could have these arrays of solar panels. I just want everybody to think of that and decide whether this is something you really want to see happen in Kitty Hawk.*

**Garriss:** *It is interesting to me that no other town in Dare County has yet pursued this but then this is before us.*

**Klutz:** *The way I understand the code is if it is not in there we do not allow it and this is our attempt to put something in the code to define the standards. The talk of putting them on roofs*

**Kitty Hawk Town Council Minutes: August 4, 2014**

**Page 8**

*and hot water heaters and that kind of thing is all in the building code so I would think there is no problem with them.*

**Perry:** *That is where I was going with the questions I was addressing. There is an avenue to do some of it. The larger Level 3 section is probably not something we want in Kitty Hawk and I am not sure if by not passing this that would negate it or not. This is where we have to do some thinking. I want to point this out before I make a motion. On the next to last page, under (i) 4, it is talking about a performance reclamation bond. I asked Joe to put in more stringent requirements to ensure that somebody does not walk off and leave us holding the bag because I have seen that happen down in the Gulf with oil rigs and stuff of that nature. Mineral management has had an awful time trying to get the rigs removed when it is supposed to be done. I am trying to give us something more if we go in this direction. That was added after we got this the first time and now I am going to **make a motion that recommends we table this until the September 2, 2014 meeting for further discussion.** MPT Bateman seconded and the motion passed unanimously, 5-0.*

*The matter is tabled and I will bring to your attention the information that Joe gave us was authored by a fellow who worked for the Southern Environmental Law Centers Land and Community Program.*

**9. Planning**

**a.) Discussion of Potential Town Code Amendments to the Location of Septic Systems**

**Perry:** *This came up with a subdivision and there were a lot of questions I had that dealt with facts versus non-facts and I was not sure what the truth was. Thanks to Joe and the planning board who did a really good job of research and put into verbiage things that make it easy to understand. With what they have brought to our attention we now have a clear set of facts of what is and what is not ... no more innuendo or those sorts of things and it is something we can all go by.*

**Heard:** *Following the review of the West Village Subdivision there were questions asked that I could not answer and they related to septic tank locations. I was asked to do some research and after doing that council asked me to present some things to the planning board for their consideration regarding possible standards. Putting some things that we had done as interpretations in the past into an ordinance form and looking at other standards that might be necessary to protect the interests of the citizens of the town. The planning board spent a couple of months looking this over and rather than deciding to go ahead and propose changes to our ordinances, determined the town did not need to make any changes to our ordinances regarding the location of septic tanks.*

*One of the items they were looking at specifically is whether or not a septic tank could be located on another piece of high ground from a residence on the same property or across a driveway or*



**Kitty Hawk Town Council Minutes: August 4, 2014**  
**Page 9**

*road on the same property. Town Attorney Steve Michael researched the state law and determined the statutes did not authorize the town to engage in that type of regulation. That was an easy decision after that advice to say we cannot go there so we will not go there.*

*The second item had to do with whether or not a septic tank could be located on an adjoining property not on the same lot as where the residence is located. It is something that is permitted by the Dare County Environmental Health Department and the state in general authorizes them to do that. I want to be clear on when they do that they require there be a permanent legal document recorded, whether it is an easement or some other type of contractual arrangement that holds the arrangement in perpetuity. If the person sells the property that right to continue to use that septic tank goes with it so it is not something a later owner can cancel out.*

*In general the board came to the conclusion there did not seem to be a very strong benefit to the town in some cases where this would apply, and fortunately it is not very many, but it could cause great damage to a property owner who would be unable to develop a property if they were not able to be approved for a septic tank on it. The board felt it was important to give owners the flexibility to enter into an arrangement on another property in cases where it is needed. The board decided not to recommend any changes.*

*The other item the mayor was referring to is we reported that staff has for 12 years been working off of an interpretation that was provided to us by the town attorney at the time. That interpretation was that all improvements, including a septic system, needed to be on the same lot as the residence. The board has recommended to the council that a different interpretation be used that would allow ... that it is consistent ... if it is good enough for the health department and they have the appropriate things in place legally to allow that then they do not see a reason why the town should. They asked us to consider discontinuing that interpretation and take an interpretation that we allow that in the future.*

**Perry:** *If we drop the interpretation the town basically gets out of the septic tank location business. Right now it is kind of an overlapping rule. If we drop it does it require any rewrite of the general standard that was being used as the interpretation?*

**Heard:** *I have had a chance to talk with Attorney Michael about it and the thought was it might be a good thing to clarify it in the ordinance if that is the direction council wants to go.*

**Michael:** *I checked the state statutes and I quickly came to the conclusion that the state had pre-empted all of the municipalities from being able to do much. One of the things they specifically mentioned in the state statute ... there is a state commission on public health that makes these rules and one of the things in the state statute says they are responsible for topography and location on the property where the septic system goes which tells us we cannot do that. I told the planning board and Joe that you probably could, if you chose to, for your land use zoning laws, require that it all be on the same property if you chose to go that way but I think you would probably have to do that by a change in your ordinance notwithstanding the interpretation that*

**Kitty Hawk Town Council Minutes: August 4, 2014**

**Page 10**

*was made. One of the reasons I think that is the North Carolina Administrative Code, which is where the rules are that have been adopted by the health commission, states the entire wastewater sewage system shall be on property owned or controlled by the person owning or controlling the system. Necessary easements, rights-of-way or encroachment agreements as applicable, shall be obtained prior to the issuance of the construction authorization for the system installation or repair. And it goes on about what has to be in there. Sort of what Joe has summarized to you. The North Carolina rules that have been adopted do allow for exactly what we interpreted our town code not to allow. So if we are going to allow it we in theory could say whatever the health department will approve is okay as long as we have these protections in place that are required by the North Carolina rules already. If you want to say you have to have it all on the lot that the residence is on I think you could probably do it. Currituck County has done that but they did it in conjunction with increasing the minimum lot size as well which is another way to solve some of these problems. When you have a 25,000 square foot minimum size lot there is a lot more space to put things.*

*If you want to go away from that interpretation, because if you read the introduction to our zoning, you could come away with the interpretation that it all ought to be on same lot but our ordinance does not exactly say that. If you want to do that I would say you probably ought to adopt wording that is in the administrative rules that say we will permit it this way and if you do not say no. Put that in your ordinance specifically. It all has to be on the same lot.*

**Perry:** *If council decides tonight they want to get out of the business entirely there is some change that needs to be done.*

**Michael:** *I would say there is one way or the other so that we do not have interpretations anymore. We have a clear ordinance that says yes or no.*

**Pruitt:** *I recommend going with the decision the planning board made. I think they did a great job and I also think the state and county is in the septic tank business and maybe it is time for us to get out of it. Let them handle it and go with their rules.*

**Garriss:** *I agree. It is not a decision for us to make. It is pretty clear to me that the county and state have their own policy, bylaws, rules and I think we should abide by those.*

**Bateman:** *I have a question. I agree with what y'all are saying but if we go with that does it mean someone on the oceanfront whose septic system goes out can work a deal with the guy across the street from the oceanfront and put his septic system across the road?*

**Michael:** *That would be up to the county and the health department applying these rules as to what they would allow. They have a lot of flexibility in what they can and won't do. I got Nags Head to amend their ordinance in their commercial district a couple of years ago to allow a pipe under the road for property on the other side of the road because that was where the septic system was going to have to go. They specifically had in their ordinance you could not do that*

**Kitty Hawk Town Council Minutes: August 4, 2014**  
**Page 11**

*but they amended it because it just made sense. The people who owned the property across the street said why not.*

**Bateman:** *The jury is still out with me then.*

**Klutz:** *The only place in the code that deals with this is the introductory area that says all of the improvements have to be on the same lot. Is that the only thing we will have to change? Put some sort of a caveat in there that says with the exception of state approved ...*

**Michael:** *Somewhere in there would be a statement about whatever the health department will approve or subject to these requirements.*

**Heard:** *There is a section specific to septic tanks as well as the larger commercial shared systems like what you would see at Wal-Mart. That is another section we would probably want to put something in so it may involve this sentence in each of them so anyone looking for it is going to find it and know what the intent of the council is.*

**Klutz:** *I would like to add I really appreciate everything you did Joe to answer the questions that I had and the in-depth look you brought before the planning board. The result of their deliberations was very helpful.*

**Perry:** *I agree we should stay out of it. There are plenty of rules already in place and we don't need to be overlapping what the state and county are already doing. To that end, since we don't have a motion, I am going to propose the following motion **that we approve the recommendations put forth by the planning board in a memo that was dated July 25, 2014. That memo was to the mayor and members of council from Chairman Oscar Northen and the planning board. In addition to that we direct the planner to make whatever changes are appropriate in the code to fit this recommendation.***

**Michael:** *And it will have to go back to the planning board and to council because it is a zoning item.*

**Councilman Garriss seconded the motion.**

**Bateman:** *Joe do you see any adverse effects by what we are doing for future development? Positive or negative?*

**Heard:** *I think, as the board has summarized in the memo, it is offering greater flexibility for property owners. You are offering an opportunity to people that have property that would not support a septic system flexibility. I think overall from that standpoint it would be positive in allowing the owners an alternative.*

**Vote was unanimous, 5-0.**

**10. New Business**

**a.) Schedule for Approval of Municipal Service Districts – In March 2014 council approved a schedule that included holding a public hearing for MSD's on October 6, 2014. Further information is needed and staff is recommending a public hearing be held on November 3, 2014.**

Manager Stockton reported in March council approved the schedule for the development and approval of the Municipal Service Districts. Due to a need to obtain more information from the consultant as to the cost of the Storm Damage Reduction project before it is discussed with the public staff is requesting a revision to the schedule.

Councilwoman Klutz suggested when the public hearing notifications are mailed out to include a press release with the information and then **made a motion for the schedule, with the recommended addition of a press release for the October 6<sup>th</sup> milestone, for the establishment of the Municipal Service Districts for the Town of Kitty Hawk be revised as presented by the town manager. Councilman Garriss seconded the motion and it passed unanimously, 5-0.**

**b.) Beach Tent/Canopy Discussion**

**Stockton:** *It was requested that we investigate the use of the beach canopies in town and determine if it is creating a problem and how to eliminate it. I met with the police and fire chief and it was their opinion there is not a problem with the beach canopies. A memo was then sent out to council summarizing possible solutions to leaving the beach canopies overnight. We feel if council wishes to adopt an ordinance signs could be posted to see how that worked with the enforcement. It is really up to council whether or not we want to try to go ahead with an ordinance. The Town of Southern Shores has an ordinance to that effect and it was included in the packet.*

**Klutz:** *I do not like the idea of an ordinance. I think it would be addressing, for us at least, a problem that both the police and fire departments do not think exists. One of the things we could do is have our ocean rescue folks, who are always involved in talking to people about rip currents and other hazards on the beach, mention it would be a good idea for them to take not only their trash away when they leave the beach but also their beach paraphernalia. This would help because of the potential safety issues for emergency personnel.*

*We have seen pictures of the beach holes usually dug by parents playing with their children. Getting the water into the holes and making a little pool or making a hole they can use as a fort. When they leave really deep holes on the beach that causes problems sometimes. I always look at joggers running on the beach and I wonder how many sink holes they are going to put their feet in because sometimes it is like quicksand and if they come down hard they can go down to their knees in sand.*

**Kitty Hawk Town Council Minutes: August 4, 2014**  
**Page 13**

*Between asking ocean rescue to add a little to what they already talk to people on the beach about and putting it in the tide table brochure that is handed out, which is very popular, should help. Add a line to it that says when you leave the beach take your beach equipment with you as it does cause a potential impediment to emergency personnel. Take your equipment with you, fill up the holes and have a great day at the beach. That is where I would go with it.*

**Bateman:** *I had the experience yesterday of going up and down the beach for the Sandbar 5k Race. We borrowed the police department's gator. At 5 o'clock in the morning I saw one tent and it was down by Winks so I do not see an issue. I think your synopsis of this is correct, there is not an issue. Emilie touched on one of our greatest assets, the customer oriented ocean rescue. Every time I am out there they are always talking to the customer. They ride along, stop, get off and go talk to somebody at the oceanfront then back on the dune. There was a guy that flicked his cigarette into the sand and the guy got off the four-wheeler and went and picked the cigarette up. That is good customer service. I think if we utilize those people we counteract any kind of negativity that is out there. I think it is a good point to have them do it.*

**Garriss:** *I agree. Chief Johnson and Chief Spivey both say we do not have a problem. The gentleman made a presentation at our last council meeting and we have a nice letter from a lady who shares his concern but I do not think we have a problem enough to pass an ordinance. Some signs or just some nice conversation from our staff will help. If we pass an ordinance somebody has to enforce it, it is going to cost money and I do not like that.*

**Pruitt:** *I think it has all been said. I agree we do not need to be paying staff to go around ... and I think it just does not seem welcoming to start tagging the tents. I think Emilie's suggestion is the best way. Let our ocean rescue continue what they are doing in educating the people for safety reasons to please move them off of the beach. Let's see what happens from there.*

**Perry:** *I am in agreement with the comments that have been made so far. I do not want to add any ordinances we do not have to add. If fire and police tells us it is becoming a problem then we will act in accordance. I do not want to add people or overtime so let's try the education first. If it does not work this year then next year we can maybe look at the stickers like Kill Devil Hills is doing. They do not have an ordinance but have a sticker that says please take this with you when you go.*

## **11. Reports or General Comments from Town Manager**

**a.) Ocean Rescue Compliment** – Manager Stockton said he received a compliment from Vicki Marandina. She was recently on the beach and noticed a young boy going too far out in the surf. He was spotted by one of the ocean rescue lifeguards and the lifeguard stopped and motioned the young boy to return to the beach. She was very impressed and appreciative of what the ocean rescue does to keep everybody safe.



**Kitty Hawk Town Council Minutes: August 4, 2014**

**Page 14**

**b.) Debris Pickup** – Manager Stockton said the town also received a compliment from Jan Collins thanking the town for arranging the debris pickup following Hurricane Arthur.

**c.) CAMA Contract** – Manager Stockton said staff has received a signed contract from CAMA for the Lillian Street Beach Access Parking Expansion project. We are now in a position to apply for a Tourist Bureau grant with an August/September timeframe.

**d.) Storm Damage Reduction Update** – Manager Stockton said Coastal Planning & Engineering has completed the vibrocore operations which started on July 22<sup>nd</sup> and said they have a high degree of confidence they will be able to design a borrow area off shore that will support our project. CP&E also reports they have made progress in determining the benefits from a berm only plan and a minimum dune plan which we talked to them about and they will be bringing forth more information this month. As for permitting, a draft Essential Fish Habitat and Biological Assessment has been submitted to the Army Corps of Engineers and the Bureau of Ocean Energy Management. CP&E is also finishing the preliminary Environmental Assessment to submit to the Army Corp of Engineers and BOEM in the coming weeks.

Mayor Perry noted all the information seems to suggest there is a sufficient amount of sand to do all the projects and it is apparently fairly close which is good news.

Manager Stockton agreed it is located in an area where it could be cost effective for the town.

**12. Reports or General Comments from Town Attorney**

There were no further reports or comments from Attorney Michael.

**13. Reports or General Comments from Town Council**

**a.) Recreation Committee Update** – Councilman Pruitt reported he attended the committee meeting on July 29<sup>th</sup>. They appointed their officers and Christine Buckner was reappointed as Chairwoman and Dusty Rhodes as Vice-Chairman. Chairwoman Buckner updated the members on the Lillian Street Parking Extension and they talked about some new business. The committee decided they wanted to wait before bringing anything to council until the Lillian Street project is completed.

**b.) Sandbar 5k Race** – MPT Bateman thanked the police and fire departments and ocean rescue for their help with the Sandbar race on Sunday. It was a successful event even in the rain. There were 375 runners and all proceeds go back to the community.

**c.) Dominion Power Poles** – MPT Bateman said he had someone ask him if Dominion Power was supposed to take down the smaller poles once they put up the large poles. They took down

**Kitty Hawk Town Council Minutes: August 4, 2014**  
**Page 15**

the smaller poles in Nags Head. He could not answer the question and asked if anybody finds out to let him know.

Councilman Pruitt said he was under the impression they were not going to be taken down. He asked the question and was told they need both.

**d.) Thank You to Police Department** – Councilwoman Klutz said she would like to give a big thank you to the police department. Approximately 74 mailboxes were vandalized on Lindbergh Avenue recently. Being an early riser she called the police department when she saw hers knocked over and within half an hour the police officers were putting the mailboxes back up. They also caught the perpetrators. Most of her neighbors did not even know their mailboxes had been knocked down. It was wonderful and saved people a lot of trouble and annoyance.

**e.) Overton Property** - Mayor Perry reported he received a telephone call from the attorney handling the Overton estate. They have filed the 30 day notice necessary to take action. Soon the property will be up for sale and there is at least one buyer. He asked the attorney about having the town bush hog the property and was given permission to do so.

**f.) Beach Nourishment** – Mayor Perry said he received a telephone call today from the *New Yorker* magazine inquiring about the town's beach nourishment and all that goes with it. There is interest in this from far away.

**g.) Ocean Rescue** – Mayor Perry asked when the town stops Ocean Rescue services.

**Spivey:** *Lifeguards come off Labor Day. There is a shoulder season until October the first with two ATV's and a supervisor.*

**Perry:** *What does that accomplish? And where I'm leading to is do we want to stop the whole process after Labor Day?*

**Spivey:** *We still have a lot of beach patrons after Labor Day. Ocean rescue is doing basically the same thing there are just no stationary stands in three locations. They are performing rescues, continuing to talk to the beach patrons and doing the exact same thing as during the summer. I think the other municipalities go to October the 15<sup>th</sup>. We, for budgetary purposes, cut that last two weeks off three or four years ago and we have been stopping it October 1<sup>st</sup>.*

**Perry:** *How much time are they spending on the beach?*

**Spivey:** *They are spending a full day on the beach just like they do now.*

**Klutz:** *They actually cut an hour off. It is 10 to 5 and it's an ATV just going back and forth. The beach certainly is not as crowded after Labor Day. I remember being told the people on the*

**Kitty Hawk Town Council Minutes: August 4, 2014**  
**Page 16**

*beach after Labor Day are the newly wed and nearly dead. I do not think there is as much activity required from the ocean rescue because there are parents of little children and they are usually vigilant with them so ...*

**Perry:** *Where I'm going with this is for next year. We have it budgeted this year so we are going to go on with it but next year let's look and see if we still need to continue. Council should be thinking along those lines when we get into the budget talks. I'm bringing it up so you will be aware it is going to come up and you might want to provide stats if that would helpful to us, how many rescues and those sorts of things.*

**Spivey:** *We can provide that.*

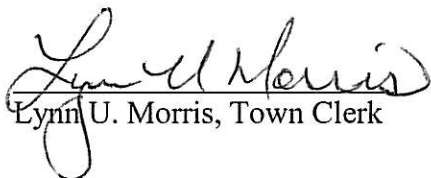
**14. Public Comment**

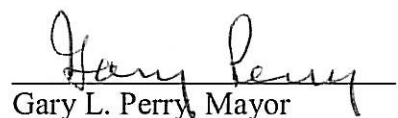
No came forward.

**15. Adjourn**

**Councilman Garriss made a motion, seconded by MPT Bateman, to adjourn. Vote was unanimous, 5-0. Time was 7:11 p.m.**

These minutes were approved at the September 2, 2014 council meeting.

  
Lynn U. Morris, Town Clerk

  
Gary L. Perry, Mayor